IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 20TH MARCH 2007 / 29TH PHALGUNA 1928

WA.No. 653 of 2007()

AGAINST THE JUDGEMENT/ORDER IN WPC.4545/2007
dt.28.2.2007
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APPELLANT: PETITIONER

T.C.SASIKUMAR, SENIOR SUPERINTENDENT,
STATE WATER TRANSPORT DEPARTMENT,
REGIONAL OFFICE, CHANGANACHERRY.

BY ADV. SRI.M.V.BOSE
SRI.VINOD MADHAVAN
SMT.NISHA BOSE

RESPONDENTS: RESPONDENTS
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1. THE STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO GOVERNMENT,
TRANSPORT (D) DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE DIRECTOR,
DIRECTORATE OF STATE WATER TRANSPORT DEPARTMENT,
ALAPPUZHA.

BY GOVERNMENT PLEADER

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 20/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R.Raman & Antony Dominic, JJ.
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W.A.No. 653 of 2007
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Dated this the 20th day of March, 2007.

JUDGMENT

Raman,J.

This appeal is filed against the interim order passed by a learned single Judge of this Court pending further consideration of the matter in the appeal. But according to the petitioner, though it is in the nature of an interim order, certain observations were made in the order under appeal, which according to him, are the findings against him and likely to be affected and hence, he has filed this appeal.

2. Admittedly, the appellant is a Senior Superintendent in the Water Transport Department. It is the specific contention of the respondent – State that the appellant is not in the "service" as defined and unless special rules are amended, he cannot lay any claim for appointment to the post. It was in these circumstances that as a temporary measure, the post of Director was proposed to be filled up on deputation. But the learned Government Pleader based on the counter affidavit filed in the Writ Petition submitted that the petitioner will also be considered as from other service in the matter of

appointment by deputation along with other eligible candidates.

3. We have gone through the order passed by the learned single Judge, which is impugned in this appeal and after hearing the parties we don't find any reason to interfere with the interim order passed. We direct that even for filling up the post on deputation, the claim of the petitioner treating him as from other service for the time being, will also be considered until amendments are made to the special rules. It is open to the appellant to move the learned single Judge for an early disposal of the Writ Petition. The finding rendered by the learned single Judge being limited to the consideration of a prima facie case for the disposal of the interim order, that will not prejudice the contention of the appellant in the writ petition.

With the above clarification, the Writ Appeal is dismissed.

P.R.Raman,
Judge.

Antony Dominic,
Judge.

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